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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,979	01/13/2004	Richard John Gann	7267-1	3714
22442	7590	01/06/2006	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/756,979	GANN, RICHARD JOHN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jerry Redman	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 November 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 and 15-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

This application contains claims 9-13 are drawn to an invention nonelected without traverse in Paper dated 11/1/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The status of the claims is as follows:

Claims 9-13 are hereby withdrawn from consideration;

Claim 14 has been cancelled; and

Claims 1-8 and 15-17 (newly added) are herein addressed below.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dupuis ('765) in view of Scholes (6,698,139). Dupuis et al. ('765) disclose a hung window comprising a frame (WF), an upper sash (22 or 26) mounted in the frame (WF) and slidable therein, a lower sash (20 or 24), mounted in the frame (WF) and slidable therein, a pair of horizontally spaced pulleys (32, 34 or 30, 36) mounted in the frame (WF) (column 5, lines 45-50, mounts pulleys on both sides of the window frame), and a cable (60 or 62) having a first end connected to the upper sash (22 or 26) and a second end connected to the lower sash (20 or 24) (column 4, lines 5-25) whereby the weights

of the sashes (column 5, lines 65-68 and column 6, lines 1-5) allows one to move either sash and the opposite sash moves/travels the same distance. Dupuis et al. ('765) fails to disclose a frame having vertical members with channels, sashes with a support, and a locking mechanism between the sashes. Scholes ('139) discloses a frame housing two sashes guided within grooves and having a locking element located on the top of the bottom sash and the bottom of the top sash. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the window assembly of Dupuis ('765) with a grooved frame assembly having an interlocking mechanism as taught by Scholes ('139) since a frame assembly is essential for sashes to be guided therein and a locking mechanism is well known to prevent unwanted people from easily entering ones house. Even though Dupuis ('765) is silent in how the sash assembly is mounted, it is inherent that all window balance assemblies for double hung sashes must be situated within a frame and have been since the turn of the century.

Claims 6, 7, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dupuis et al. ('765) in view of Scholes ('139) and Nagel ('681). All of the elements of the same invention are discussed in detail above except: 1) providing a frame having vertical members with channels, sashes with a support, and a locking mechanism between the sashes; and 2) providing a support and a means to adjust the length of the cable. Scholes ('139) discloses a frame housing two sashes guided within grooves and having a locking element located on the top of the bottom sash and the bottom of the top sash. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the window assembly of Dupuis ('765) with a

grooved frame assembly having an interlocking mechanism as taught by Scholes ('139) since a frame assembly is essential for sashes to be guided therein and a locking mechanism is well known to prevent unwanted people from easily entering ones house. Nagel ('681) discloses a window assembly having a cable (42) connected to a bottom portion of an upper and lower sash via a support (38 and 38) and further having an adjusting means (41). It would have been further obvious to one of ordinary skill in the art at the time of the invention to provide Dupuis et al. ('765) with a support and an adjusting means as taught by Nagel ('681) since a support and adjusting means allows one to fix the cable to the sash and the adjusting means allows one to adjust the length of the cable such that the window is properly fit within the opening of a frame.

Applicant's arguments with respect to claims 1-8 and 15-17 have been considered but are moot in view of the new ground(s) of rejection. As discussed in detail above, double hung sashes having supports about four sides and the sashes mounted within a frame having vertical and horizontal stiles having grooves have been around since the turn of the century.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.



Jerry Redman  
Primary Examiner